IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 23RD JULY 2007 / 1ST SRAVANA 1929

Bail Appl..No. 4440 of 2007()

CRIME NO.115/07 OF NILESHWAR POLICE STATION

APPLICANT/ACCUSED:

JANARDHANAN, AGED 40 YEARS,
COLLECTION AGENT, NORTH MALABAR GRAMIN BANK,
S/O. KUNHAMMARAMMA, KAKAT, BANGALAM P.O.,
MADIKAI VILLAGE, HOSDURG TALUK, KASARAGOD DISTRICT

BY ADV. SRI.T.K.VIPINDAS

RESPONDENTS: COMPLAINANT:

THE STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM, REPRESENTING
S.H.O., NILESHWAR POLICE STATION.

BY PUBLIC PROSECUTOR SRI. S.U. NAZAR

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 23/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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B.A.No. 4440 of 2007

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Dated this the 23rd day of July, 2007

O R D E R

Application for anticipatory bail. The petitioner faces allegations under Section 420 I.P.C. The crime has been registered on the basis of a private complaint filed before the learned Magistrate and referred to the police under Section 156(3) Cr.P.C. The petitioner is the sole accused in the crime. He was allegedly functioning as agent of a chitty company by name Vairajathan chitty. The crux of the allegations against the petitioner is that he, as agent of his employer, solicited and enrolled many members as subscribers to the kuri. He collected amounts from the subscribers. He gave receipts acknowledging the payment of money by them. But when the subscriber/defacto complainant went to the chitty company for collecting the amount, the company was found closed. This is the only allegation raised. No specific allegation is raised that the petitioner had not remitted the amount in the company or misappropriated the funds. The learned counsel for the petitioner submits that in these circumstances it would be unjust and unfair to

compel the petitioner to suffer the undeserved trauma of arrest and detention in custody.

2. The learned Prosecutor does not oppose the application. I am satisfied in the facts and circumstances of this case - in the total absence of an allegation that the petitioner has not remitted the amount in the kuri company or has misappropriated the amounts, the petitioner can be granted anticipatory bail.

3. In the result:

(1) This application is allowed.

(2) The following directions are issued under Section 438 Cr.P.C.

(a) The petitioner shall surrender before the learned Magistrate on 30.7.2007 at 11 a.m. The learned Magistrate shall release the petitioner on regular bail on condition that the petitioner executes a bond for Rs.25,000/- (Rupees twenty five thousand only) with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate.

(b) The petitioner shall make himself available for interrogation before the Investigating Officer between 10 a.m. and 3 p.m. on 31.7.07 and 1.8.2007 and thereafter all Mondays and Fridays between 10 a.m. and 12 noon for a period of two months and subsequently as and when directed by the Investigating Officer in writing to do so.

(c) If the petitioner does not appear before the learned Magistrate as directed in clause (1) above, these directions shall lapse on 30.7.07 and the police shall be at liberty thereafter to arrest the petitioner and deal with him in accordance with law.

(d) If the petitioner were arrested prior to his surrender on 30.7.2007 as directed in clause (1) above, he shall be released from custody on his executing a bond for Rs.25,000/- without any surety undertaking to appear before the learned Magistrate on 30.7.2007.

(R. BASANT)
Judge

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